

Rev. Proc. 81-65, 1981-2 C.B. 690

SECTION 1. PURPOSE

The purpose of this revenue procedure is to clarify Rev. Proc. 76-47, 1976-2 C.B. 670, and Rev. Proc. 80-39, 1980-2 C.B. 772, with regard to publicizing an employer-related grant or loan program in the employer's company newsletter.

SEC. 2. BACKGROUND

.01 Rev. Proc. 76-47 provides guidelines to be used in determining whether a grant made by a private foundation under an employer-related educational grant program to an employee or to a child of an employee of the particular employer to which the program relates is a scholarship or fellowship grant subject to the provisions of section 117(a) of the Code.

.02 Section 4 of Rev. Proc. 76-47 provides that if a private foundation's employer-related grant program satisfies seven conditions, and either a percentage test or a facts and circumstances test, the Service will assume that the grants awarded under the program will be scholarships or fellowship grants subject to the provisions of section 117 of the Code. Section 4.01 of Rev. Proc. 76-47 requires that the grant program must not be used by the employer, the private foundation, or the organizer thereof, to recruit employees or to induce employees to continue their employment or otherwise follow a course of action sought by the employer. Section 4.02 of Rev. Proc. 76-47 requires that the grantees be chosen by an independent selection committee, and that any public announcement of the awards must be made by the foundation or by the independent selection committee.

.03 Rev. Proc. 80-39 provides guidelines for determining whether educational loans made by a private foundation under an employer-related loan program are taxable expenditures under section 4945 of the Code.

.04 Section 4 of Rev. Proc. 80-39 provides that if a private foundation's employer-related loan program satisfies seven conditions, and either a percentage test or a facts and circumstances test, the Service will assume that the grants awarded under the program will not be taxable expenditures under section 4945 of the Code. Section 4.03 of Rev. Proc. 80-39 requires that the loan program must not be used by the employer, the private foundation, or the creator of the foundation, to recruit employees or to induce employees to continue their employment or otherwise follow a course of action sought by the employer. Section 4.04 of Rev. Proc. 80-39 requires that the loan recipients be chosen by an independent selection committee, and that any public announcement of the loans must be made by the foundation or by the independent selection committee.

SEC. 3. APPLICATION

The Service recognizes that for an employer-related educational grant or loan

program to fulfill its intended purpose, it is necessary to inform the eligible employees of its availability. The use of a company newsletter, distributed to all employees of a company, and containing information regarding the availability of the program, solicitations for applicants, and announcements of the names of the grant or loan recipients, can accomplish this purpose. Accordingly, the fact that a private foundation's employer-related grant or loan program is publicized in the employer's newsletter will not be considered a violation of section 4.01 of Rev. Proc. 76-47, or section 4.03 of Rev. Proc. 80-39, if the foundation is clearly identified as the grantor of the awards. Similarly, making public announcements of the grants or loans in the employer's newsletter will not be considered a violation of section 4.02 of Rev. Proc. 76-47, or section 4.04 of Rev. Proc. 80-39, if the foundation or the independent selection committee is clearly identified as the grantor of the awards.

SEC. 4. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 76-47 and Rev. Proc. 80-39 are clarified.